IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2663 OF 2005

IN

FIRST APPEAL STAMP NO. 28526 OF 2004

The Employees State Insurance
Corporation ..Appellant

versus

Harsharan Singh Gujral ..Respondent

Mr. H. V. Mehta for the Appellant.
Mr. R. Gehani for the Respondent.

CORAM : D. G. DESHPANDE,J.

DATE : 21ST OCTOBER,2005

P.C. :

1. Heard.

2. This is an application for condonation of delay of 135 days. Application is strongly opposed by the Counsel for the Respondent. He has relied upon the judgment reported in **AIR 1998 SC 2276 P. K. Ramachandran vs. State of Kerala & Anr.,** where

the Supreme Court did not uphold the order of condonation of delay because nothing was recorded by the lower court about satisfaction regarding the explanation given for the delay. In that case, there was delay of 565 days. Another judgment relied upon by the counsel for the respondent is reported in **1983 Lab. I.C. 1801 Employees State Insurance Corporation, Kanpur vs. M/s. Punhjab General Manufacturing Works, Mathura and Anr.** where Allahabad High Court has held that the court can refuse to condone the delay if the department was acting in causal way without any sense of urgency.

3. As against this, Mr. Mehta relied upon the judgment of the Supreme Court reported in **(1998) 7 SCC 123 N. Balakrishnan vs. M. Krishnamurthy**. In this case delay was of 883 days. In paragraph 9 the Supreme Court has stated that *the length of delay is no matter, acceptability of the explanation is the only criteria.* In paragraphs 5 and 6 of this application, explanation is given by the appellants as to how the delay occurred. That explanation is reasonable and acceptable and therefore in view of the aforesaid judgments of the Supreme Court adopting liberal approach in such matters is the

only thing to meet the ends of justice. However, the respondents can be adequately compensated. Therefore delay is condoned subject to payment of cost of Rs.1,000/- (Rupees One Thousand). Payment of condition cost precedent. Cost to be paid within four weeks from today. Civil Application is allowed and disposed of.

3. Put up Appeal for admission on 30.11.2005.

21.10.2005 (D.G. DESHPANDE, J.)